



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Trenton D. Weeks, DC

Respondent Name

Employer's Mutual Casualty Company

MFDR Tracking Number

M4-14-0025

Carrier's Austin Representative

Box Number 19

MFDR Date Received

September 4, 2013

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "On 11/08/2012 I performed an evaluation to determine maximum medical improvement and impairment of the above named claimant. I performed this examination at the request of the injured employee and the treating doctor.

11/20/12 Carrier EOR indicates code:

- (184) The prescribing/ordering provider is not eligible to prescribe/order the service billed.
- (96) Non-covered charges.

11/28/12 Carrier EOR indicates code:

- (185) The rendering provider is not eligible to perform service billed.
- (96) Non-covered charges

01/02/13 Carrier EOR indicates code:

- (182) Procedure modifier was invalid on the date of service.
- (96) Non-covered charges.

Response: This examination was performed for the purpose of determining MMI and Impairment as it related to the work injury of 09/19/2012. This evaluation and report does not in any way constitute treatment of the injured worker and is not subject to preauthorization requirements in accordance with Labor Code §413.014. My certification and authorization to evaluate and certify MMI and IR remains current, active and has not been revoked or suspended at any time. After careful review of documentation it is concluded that this billed examination (corrected SS# of the above named claimant on 12/20/2012) was properly preformed, document, and submitted. Pursuant to *RULE §134.204 in accordance with section (A) paragraph (3) of the Medical Fee Guidelines*, If the examining doctor, other than the treating doctor, determines MMI has not been reached, Modifier 'NM' shall be added. An examining doctor, other than the treating doctor, shall bill using CPT Code 99456. Reimbursement shall be \$350.

This examination and report in no way constitutes treatment and was referred by the treating doctor as indicated in the DWC-69. This report and bill was performed according to TDWC rules and should be paid in full."

Amount in Dispute: \$350.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "This is a medical fee dispute concerning Requestor's billing for a MMI evaluation on November 8, 2012. Carrier asserts that reimbursement is not owed for these services because Requestor was not authorized under 28 TAC 130.1(a) to perform this evaluation.

Requestor asserts that the exam was done on referral from John Botefuhr, D.C. Dr. Botefuhr, however, was not the approved treating doctor on this case. On November 12, 2012, Carrier filed a PLN-11 disputing that the change to Dr. Botefuhr was appropriate and asserting that purported change was invalid. Under Labor Code section 408.022(d) a change of doctor 'may not be made to secure a new impairment rating or medical report.'

The dispute of Dr. Botefuhr as treating doctor has not been adjudicated. Accordingly, Requestor's evaluation does not qualify as an authorized doctor under 28 TAC 130.1(a)(1)(A)(i)."

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
November 8, 2012	Evaluation of MMI/IR from a Doctor other than the Treating Doctor (99456)	\$350.00	\$350.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §126.9 sets out the procedures for change of treating doctor.
3. 28 Texas Administrative Code §130.1 sets out the criteria for an authorized doctor to address maximum medical improvement and impairment rating.
4. 28 Texas Administrative Code §134.204 sets out the fee guidelines for billing and reimbursing division-specific services.
5. The services in dispute were reduced/denied by the respondent with the following reason codes:
 - 184 – The prescribing/ordering provider is not eligible to prescribe/order the service billed.
 - 96 – Non-covered charge(s).
 - 185 – The rendering provider is not eligible to perform the service billed.
 - 182 – Procedure modifier was invalid on the date of service.
 - 193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.

Issues

1. Who was the eligible treating doctor for referral of the disputed services?
2. Was the rendering provider eligible to perform the disputed services?
3. Are the billed services covered charges according to appropriate Medical Fee Guidelines?
4. Is the requestor entitled to reimbursement?

Findings

1. The insurance carrier denied charges stating, "The prescribing/ordering provider is not eligible to prescribe/order the service billed." Further the insurance carrier states in the position statement, "Carrier filed a PLN-11 disputing that the change to Dr. Botefuhr was appropriate and asserting that purported change was invalid...The dispute of Dr. Botefuhr as treating doctor has not been adjudicated."

On January 22, 2015, a Benefit Dispute Agreement (DWC024) became final, stating "The parties agree that from 11/2/12 through the present that Dr. John Bolefuhr, DC is the Treating Doctor." Therefore, John Bolefuhr, DC was the treating doctor eligible to refer for the disputed services.

2. The insurance carrier denied charges stating, "The rendering provider is not eligible to perform the service billed." 28 Texas Administrative Code §130.1 (a)(1) states in relevant part, "Only an authorized doctor may certify maximum medical improvement (MMI), determine whether there is permanent impairment, and assign an impairment rating if there is permanent impairment. (A) Doctors serving in the following roles may be authorized as provided in subsection (a)(1)(B) of this section. (i) the treating doctor (or **a doctor to whom the treating doctor has referred the injured employee for evaluation of MMI and/or permanent whole body impairment in the place of the treating doctor**, in which case the treating doctor is not authorized)...(B) On or after September 1, 2003, a doctor serving in one of the roles described in subsection (a)(1)(A) of this section is authorized as follows: (i) **a doctor whom the division has certified to assign impairment ratings or otherwise given specific permission by exception to, is authorized to determine whether an injured employee has permanent impairment, assign an impairment rating, and certify MMI**" [emphasis added].

Review of the submitted documentation finds that the requestor was certified by the division to assign

impairment ratings. Therefore, the rendering provider was eligible to perform the disputed services.

3. The insurance carrier denied charges stating, "Non covered charges." Billed charges are CPT Code 99456-NM: Examination by a Doctor Other than the Treating Doctor, Not at Maximum Medical Improvement. The appropriate Medical Fee Guidelines to determine if this service is covered is 28 Texas Administrative Code §134.204. This rule states in subsection (2), "An HCP shall only bill and be reimbursed for an MMI/IR examination if the doctor performing the evaluation (i.e., the examining doctor) is an authorized doctor in accordance with the Act and Division rules in Chapter 130 of this title. (A) If the examining doctor, other than the treating doctor, determines MMI has not been reached, the MMI evaluation portion of the examination shall be billed and reimbursed in accordance with paragraph (3) of this subsection. Modifier "NM" shall be added." Further, (j)(3) states, "The following applies for billing and reimbursement of an MMI evaluation...(C) An examining doctor, other than the treating doctor, shall bill using CPT Code 99456. Reimbursement shall be \$350." Therefore, the billed services are covered charges under 28 Texas Administrative Code §134.204.
4. The division finds that denial of the disputed charges was not supported. Therefore, the requestor is entitled to reimbursement of \$350.00.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$350.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$350.00 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

<hr style="border: none; border-top: 1px solid black;"/>	<u>Laurie Garnes</u>	<u>February 17, 2015</u>
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.